

**IN THE UNITED STATES BANKRUPTCY COURT
DISTRICT OF PUERTO RICO**

IN RE: **TOMAS M DUENO ESPADA
MERCEDES E LUGO RODRIGUEZ**
Debtor(s)

CASE NO: **16-00470-ESL**

Chapter 13

TRUSTEE'S OBJECTION TO PROPOSED PLAN CONFIRMATION UNDER SECTION 1325

*ATTORNEY FEES AS PER R 2016(b) STATEMENT:

Attorney of Record: **MORENO & SOLTERO LAW OFFICES LLC***

Total Agreed: **\$3,000.00** Paid Pre-Petition: **\$0.00** Outstanding (Through the Plan): **\$3,000.00**

*TRUSTEE'S POSITION RE CONFIRMATION UNDER U.S.C. §1325

Debtor(s) Income is (are) ☐ Under ☒ Above Median Income Liquidation Value: **\$216,524.00**

Commitment Period is ☐ 36 months ☒ 60 months §1325(b)(1)(B) General Unsecured Pool: **\$31,286.40**

With respect to the (amended) Plan date: **Apr 04, 2016 (Dkt 53)** **Plan Base: \$578,400.00**

The Trustee: ☐ DOES NOT OBJECT ☒ OBJECTS Plan Confirmation Gen. Uns. Approx. Dist.: **0 %**

The Trustee objects to confirmation for the following reasons:

[1325(a)(5)] Plan fails to comply with required treatment of allowed Secured Claims.

The plan fails to provide for the payment of CRIM's secured claims no. 13 and 14.

[1325(a)(6)] Feasibility – Debtor(s) does not has/have the capacity to make proposed plan payments.

Debtors have failed to submit evidence to establish that they will be able to step up plan payment to \$5,400.00 in March 2017.

[1325(a)(6)] Insufficiently Funded – Plan funding insufficient to pay 100% of [507] priority claims. [1322(d)(1)]

[1325(a)(6)] Insufficiently Funded – Plan funding insufficient to comply with Creditors Best Interest Test. [1325(a)(4)]

The minimum base needed cannot be determined at this time.

[1325(b)(1)(B)] Projected Disposable Income – Debtor(s) fails to apply projected disposable income, to be received during applicable commitment period, to make payments to unsecured creditors under the plan. [1322(a)(1)]

As per schedule J income from Property Located at Pueblo Seco is \$2,700.00 versus the contract submitted , that the rent income form Pueblo Seco totals \$5,650.00.

*OTHER COMMENTS / OBJECTIONS

Debtor's (Mr. Dueno) mother, is the 1/2 owner of the property that the plan proposes to sell. Debtor has failed to submit a sworn statement from Mrs. Margarita Espada stating she does not object the sale of the property.

The plan fails to provide for the payment of treasury's post petition priority debt claimed in POC no. 8. If Debtor intends to cure the same through the plan, the plan must specifically state so.

Pending MTDs

Trustee's Motion to Dismiss, filed on January 9, 2017 upon Debtors' failure to obtain confirmation of the plan and coopearte, is pending. Docket no. 74.

NOTICE

14 day notice: Within fourteen (14) days after service as evidenced by the certification, and an additional three (3) days pursuant to Fed. R. Bank. P. 9006(f) if you were served by mail, any party against whom this paper has been served, or any other party to the action who objects to the relief sought herein, shall serve and file an objection or other appropriate response to this paper with the Clerk's office of the U.S. Bankruptcy Court for the District of Puerto Rico. If no objection or other response is filed within the time allowed herein, the paper will be deemed unopposed and may be granted unless: (i) the requested relief is forbidden by law; (ii) the requested relief is against public policy; or (iii) in the opinion of the Court, the interest of justice requires otherwise.

CERTIFICATE OF SERVICE: The Chapter 13 Trustee herewith certifies that a copy of this motion has been served via first class mail on the same date it is filed to: the DEBTOR(S), and to her/his/their attorney through CM-ECF notification system.

/s/ Jose R. Carrion, Esq.
CHAPTER 13 TRUSTEE
PO Box 9023884, San Juan PR 00902-3884
Tel. (787)977-3535 Fax (787)977-3550

Date: January 18, 2017

/s/ Nannette Godreau, Esq.

Last Docket Verified: 74 Last Claim Verified: 20 CMC: